



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Universal Technologies Inc.

File: B-231738

Date: September 7, 1988

DIGEST

1. Procuring officials enjoy a reasonable degree of discretion in evaluating proposals, and the General Accounting Office will not disturb an evaluation where the record supports the conclusions reached and the evaluation is consistent with the criteria set forth in the solicitation.
2. An agency is not required to equalize competition for a particular procurement by considering the competitive advantage accruing to an offeror due to its incumbent status provided that such advantage is not the result of unfair government action or favoritism.
3. Protest alleging apparent defects in a request for proposals is untimely where it was not filed prior to the closing date for receipt of initial proposals.

DECISION

Universal Technologies Inc. protests its exclusion from the competitive range under request for proposals (RFP) No. 8-H-8-ED-61573 issued by the Marshall Space Flight Center, National Aeronautics and Space Administration (NASA) Marshall Space Flight Center for the design and fabrication of precision experimental models and test facility hardware for the space shuttle. Universal argues that the agency improperly evaluated the proposals and that the RFP statement of work was unduly broad and vague.

We deny the protest in part and dismiss it in part.

The RFP, issued on August 4, 1987, contemplated the award of a cost-plus-fixed-fee, level-of-effort contract. It provided that proposals would be evaluated based on four factors of equal importance: (1) mission suitability,

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(2) cost, (3) experience and past performance, and (4) other factors. Only the mission suitability factor was to be numerically scored. It was broken down into the following criteria and subitems:

Technical Approach

Key Personnel

Management Plan

- (1) Organizational Structure
- (2) Technical/Manager Approach
- (3) Hardware Verification Program

Technical Resources

- (1) Staffing Plan
- (2) Facilities and Equipment
- (3) Subcontract Resources

In the evaluation the technical approach and key personnel criteria were equal to each other but of significantly more weight than management plan and technical resources.

NASA received seven proposals by the September 18 closing date. After evaluation of initial proposals, the agency concluded that five of them, including the protester's proposal, were to be eliminated from the competitive range. The proposal of Micro Craft, Inc., the incumbent, as well as that of SRS Technologies were included in the competitive range. The proposals in the competitive range received mission suitability scores of 81.9 and 81.5. Universal received a mission suitability score of 68.4 and proposed the highest cost estimate of any of the offerors. NASA informed Universal by letter dated February 29, 1988, that its proposal would not be included in the competitive range. Discussions were then held with the two offeror's whose proposals were in the competitive range. Since both proposals were essentially equal technically, NASA selected Micro Craft for award based primarily on the agency's determination that its costs were lower. After its protest to the agency was denied on June 10, Universal protested to our Office.

Universal argues that NASA gave the incumbent, Micro Craft, an unfair advantage under the mission suitability factor by giving undue consideration to "hands-on" experience at Marshall Space Flight Center (Center) and detailed knowledge of the Center's facilities and space shuttle main engine and solid rocket booster components. Universal believes that if

the agency fairly evaluated all proposals under the RFP evaluation factors, its proposal would have been included in the competitive range. The protester further argues that one of the specific weaknesses in its proposal cited by the agency, the use of a subcontractor located in Hampton, Virginia, to perform strain gauge calibrations should be considered a positive factor because the subcontractor has far greater capabilities in strain gauge calibration than any local firm. Additionally, according to Universal, the two firms included in the competitive range also proposed geographically distant subcontractors.

In reviewing protests concerning the evaluation of proposals and the resulting determination of whether a proposal is in the competitive range, our Office's function is not to reevaluate the merits of proposals and make our own determinations. Proposal evaluation is the responsibility of the contracting agency, which is most familiar with its needs and must bear the burden of any difficulties resulting from a defective evaluation. Tiernay Turbines Inc., B-226185, June 2, 1987, 87-1 CPD ¶ 563. Procuring officials have a certain degree of discretion in evaluating proposals, and we will examine an agency's evaluation only to ensure it had a reasonable basis. Maxima Corp., B-220072, Dec. 24, 1985, 85-2 CPD ¶ 708. A proposal that is technically acceptable as submitted need not be included in the competitive range when, relative to other acceptable offers, it is determined to have a reasonable chance of being selected for award. Systems Integrated, B-225055, Feb. 4, 1987, 87-1 CPD ¶ 114.

The NASA evaluation record shows that while the evaluators did note as a major weakness under the technical approach criterion Universal's lack of familiarity with the Center's facilities and under the key personnel criterion the lack of knowledge of space shuttle main engine models, they cited other major weaknesses under the mission suitability factor. Those weaknesses include long lead times to finalize task order requirements, lack of a detailed quality control plan, lack of details concerning personnel salaries, recruitment program and retention plans, and no evidence of experience with design and fabrication of rotating machines. As the protester points out, the evaluators also cited as a weakness the use of a subcontractor located in another state to perform strain gauge balances. On the other hand, according to the evaluators, Micro Craft's proposal in addition to indicating a familiarity with the Center's facilities and with space shuttle main engine models, showed an understanding of quick response requirements, a familiarity with design and fabrication of rotating machinery and proposed the incorporation of a formal quality control system.

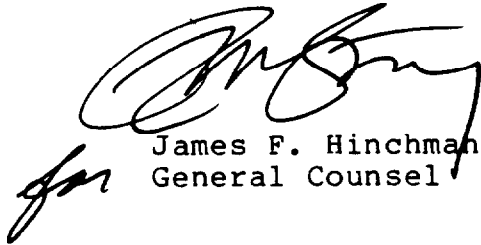
The record does not support a conclusion that the agency was unreasonable in excluding Universal's proposal from the competitive range based on its judgment that Micro Craft's proposal and that of SRS was superior to that submitted by Universal and that the protester thus did not have a reasonable chance of receiving the award. To the extent, this judgement was based in part on the evaluators' conclusion that Universal lacked specific experience in performing the required tasks as opposed to the incumbent, that was not itself improper. We have recognized that incumbent contractors with good performance records can offer real advantages to the government and that those advantages may properly be considered in the proposal evaluation. Dalfi Inc., B-224248, Jan. 7, 1987, 87-1 CPD ¶ 24. An agency is not required to equalize competition with respect to these advantages so long as the advantages do not result from a preference or unfair action by the government. Wolf, Block, Schorr & Solis-Cohen, B-221363.2, May 28, 1986, 86-1 CPD ¶ 491. The record here does not support a conclusion that the agency showed a particular preference for Micro Craft or acted unfairly towards Universal. Rather, it indicates that NASA properly considered Micro Craft's first-hand knowledge of the work and its experience performing that work in accordance with the RFP's evaluation criteria. We note that the other offeror in the competitive range was not an incumbent; it received a mission suitability score of 81.5, a difference of only .4 below Micro Craft's score.

Further, we do not find unreasonable NASA's conclusion that Universal's proposed use of a distant subcontractor to perform stair gauge calibration was a weakness. It may be true as the protester argues that this particular subcontractor has outstanding capabilities, nevertheless we think that there is a basis for the agency's concern that the distance could result in unacceptably long lead times for the work. Also, the record shows that, contrary to Universal's position, neither Micro Craft nor SRS Technologies proposed distant subcontractors located far from the Center to perform strain gauge calibrations. The record indicates that consistent with its concern about lead times, the agency did, however, note as a major weakness in SRS Technologies' proposal its use of a distant subcontractor to perform a significant portion of its design and fabrication work.

Universal also argues that the RFP statement of work which called for "design and fabrication of mission experimental models and test facility hardware" was so broad and vague that no contractor without inside knowledge could accurately predict the skill mix, special equipment or facility mix. Universal contends that the statement of

work was not detailed enough to ensure that all competitors were offering the same services and that if the RFP had been clearly written, Universal's proposed costs might have been evaluated as the lowest. This objection in our view principally involves an apparent solicitation defect which should have been raised prior to the RFP's closing date. This ground of protest is thus untimely filed and will not be considered. See Bid Protest Regulation, 4 C.F.R. § 21.2(a)(1) (1988).

The protest is denied in part and dismissed in part.



James F. Hinchman
General Counsel